

Notice of Allowability

Application No.

10/070,915

Examiner

Tatyana Zalukaeva

Applicant(s)

LETH-OLSEN ET AL

Art Unit

1713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--
All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 02/10/05.
2. ☒ The allowed claim(s) is/are 44-56.
3. ☒ The drawings filed on 31 March 2002 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S COMMENT/REASONS FOR ALLOWANCE

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/10/2005 has been entered.

Allowable Claims

2. Claims 44-56 are allowed over the prior art of record.

Reasons for Allowance

The following is an examiner's statement of reasons for allowance: The closest prior art of record, Kasai et al (U.S. 4,694,035 discloses a process for preparing spherical polymer particles having a particle diameter in a range of 0.1 to 500 micron by one stage seeded polymerization , comprising:

- a) finely dispersing a polymerizable monomer in an aqueous medium to prepare a monomer dispersion in which a number average particle diameter of the resulting monomer droplets is not larger than that of seed particles (abstract, col. 2, lines 60-62),
- b) adding the monomer dispersion to the dispersion of seeded particles;

c) polymerizing the polymerizable monomer (abstract, Fig.2-4). The particles are monodisperse regardless of the monomer (col.2, lines 67, 68). The particles can be swollen to about 1,000-10,000 of their original size (col.8, lines 16-20).

In accordance with the process of Kasai, the aqueous monomer dispersion as prepared is combined with a dispersion of seed particles in the same stage to make the polymerizable monomer absorbed or adsorbed on the seed particles, whereupon swollen particles are obtained (col.4, lines 63-68).

However, Kasai does not teach or suggest that the start particles are non-crosslinked polymer particles having a swelling capacity as recited in the instantly amended claim 44. Furthermore, in Kasai, the particle size should comply with the relation $0.5xD < Dm < 3.5xD$, otherwise the adjustments should be made to the process to modify the metastable condition. The present process does not require the determination of metastable monomer emulsion drop size. Furthermore, the dispersion polymerization of Applicant is different from soap-free emulsion polymerization of Kasai. Kasai's polymerization is a two step process, while the instant claims call for one step process. No other prior art that anticipates or suggests fairly the instant claims has been located as of the date of the present communication. Therefore, claims 44-56 are allowed over the prior art

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tatyana Zalukaeva whose telephone number is (571) 272-1115. The examiner can normally be reached on 9:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu can be reached on (571) 272-1114. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tatyana Zalukaeva
Primary Examiner
Art Unit 1713

April 13, 2005

